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8 **UNITED STATES DISTRICT COURT**

9 EASTERN DISTRICT OF CALIFORNIA

10  
11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 THOMAS A. BOJO,

15 Defendant.

Case No. 1:24-po-00062-SAB

ORDER CONSOLIDATING CASES  
AND ORDERING STAND-BY COUNSEL

16 UNITED STATES OF AMERICA,

17 Plaintiff,

18 v.

19 EVELIA GILVILLABOS,

20 Defendant.

Case No. 1:24-po-00073-SAB

21  
22 On August 15, 2024, Defendant Thomas A. Bojo, proceeding pro se, made an initial  
23 appearance in this matter. Defendant Bojo is charged in violation notices of violations of 41  
24 C.F.R. § 102-74.385; 41 C.F.R. § 102-74.390(c); and 41 C.F.R. § 102-74.390(d).

25 On August 15, 2024, Defendant Evelia Gilvillabos, proceeding pro se, made an initial  
26 appearance in this matter. Defendant Gilvillabos is charged in violation notices of violations of  
27 41 C.F.R. § 102-74.385; 41 C.F.R. § 102-74.390(c); 41 C.F.R. § 102-74.390(d); and 41 C.F.R. §  
28 102-74.390(a).

1       At the February 20, 2025 status conference, the Government, Defendant Bojo, and  
2 Defendant Gilvillabos agreed to consolidation and to try the matters together. The Court agrees  
3 both actions involve overlapping parties and other common questions of fact and law. Fed. R.  
4 Crim. P. 8. Accordingly, pursuant to Rule 13 of the Federal Rules of Criminal Procedure, and  
5 with all parties' consent at the February 20, 2025 status conference, these matters shall be tried  
6 together.

7       A bench trial is set for March 28, 2025 at 12:00 p.m. As previously stated, each  
8 defendant is proceeding pro se, meaning that they are representing themselves in their case.

9       Defendant Bojo is being charged in three violation notices with violations of 41 C.F.R. §  
10 102-74.385; 41 C.F.R. § 102-74.390(c); and 41 C.F.R. § 102-74.390(d) stemming from the  
11 citation issued for the alleged offenses on March 11, 2024. (ECF Nos. 1, 3, 4.) If convicted at  
12 trial, Defendant Bojo is subject to a maximum penalty on each conviction of 30 days  
13 imprisonment, a fine in the amount of \$5,000, a special assessment in the amount of \$5, and a  
14 processing fee in the amount of \$30. See 41 C.F.R. § 102-74.450. Given a possible penalty  
15 includes imprisonment, Defendant Bojo has a right to court-appointed counsel. At a status  
16 conference on February 20, 2025, the Court advised Defendant Bojo against representing  
17 himself. Defendant Bojo waived his right to court-appointed counsel. The Court reiterates its  
18 advisement that Defendant should obtain counsel. However, if Defendant Bojo wishes to  
19 continue to waive his right to counsel and proceed pro se, he is advised that he must abide by the  
20 same rules in court as lawyers do. If Defendant Bojo makes mistakes, he will not be given  
21 special privileges or benefits, and the undersigned will not assist him. Unlike the prosecutor  
22 representing the Government in this case, Defendant Bojo will be exposed to the dangers and  
23 disadvantages of not knowing what is admissible evidence, what is appropriate direct and cross  
24 examination of witnesses, and what motions he must make and when to make them. Defendant  
25 will be expected to ask questions, make arguments, and observe the rules of evidence, and meet  
26 the standards of a practicing attorney in dealing with courtroom procedures and in conducting  
27 himself in the courtroom.

28       Because a conviction could result in sentence of imprisonment and because the

1 Defendant wishes to represent himself in these proceedings, the Court will appoint stand-by  
2 counsel to be present at trial. “[A] defendant’s Sixth Amendment rights are not violated when a  
3 trial judge appoints standby counsel—even over the defendant’s objection—to relieve the judge  
4 of the need to explain and enforce basic rules of courtroom protocol or to assist the defendant in  
5 overcoming routine obstacles that stand in the way of the defendant’s achievement of his own  
6 clearly indicated goals.” McKaskle v. Wiggins, 465 U.S. 168, 178-79, 184 (1984) (providing  
7 two limitations: (1) that the defendant “is entitled to preserve actual control over the case he  
8 chooses to present to the jury” and (2) “participation by standby counsel without the defendant’s  
9 consent should not be allowed to destroy the jury’s perception that the defendant is representing  
10 himself.”). Although the Court appoints stand-by counsel, Defendant Bojo shall maintain actual  
11 control over the presentation of his defense. Id. at 178.<sup>1</sup>

12 Defendant Gilvillabos is charged in four violation notices of violations of 41 C.F.R. §  
13 102-74.385; 41 C.F.R. § 102-74.390(c); 41 C.F.R. § 102-74.390(d); and 41 C.F.R. § 102-  
14 74.390(a) stemming from the citation issued for the alleged offenses on March 11, 2024. (ECF  
15 Nos. 1, 3, 4, 5.) If convicted at trial, Defendant Gilvillabos is subject to a maximum penalty on  
16 each conviction of 30 days imprisonment, a fine in the amount of \$5,000, a special assessment  
17 in the amount of \$5, and a processing fee in the amount of \$30. See 41 C.F.R. § 102-74.450.  
18 Given a possible penalty includes imprisonment, Defendant Gilvillabos has a right to court-  
19 appointed counsel. At both her initial appearance on August 15, 2024 and a status conference on  
20 February 20, 2025, the Court advised Defendant Gilvillabos against representing herself.  
21 Defendant Gilvillabos waived her right to court-appointed counsel. The Court reiterates its  
22 advisement that Defendant should obtain and have counsel. However, if Defendant Gilvillabos  
23 wishes to continue to waive her right to counsel and proceed pro se, she is advised that she must  
24 abide by the same rules in court as lawyers do. If Defendant Gilvillabos makes mistakes, she will

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26 <sup>1</sup> Appointment of standby counsel for purposes of this bench trial engages only the first of two limitations set forth  
27 in McKaskle. “A trial judge, who in any event receives a defendant’s original Faretta request and supervises the  
28 protection of the right throughout the trial, must be considered capable of differentiating the claims presented by a  
pro se defendant from those presented by standby counsel.” McKaskle, 465 U.S. at 179 (citations omitted). The  
appearance of the pro se defendant’s self-representation will not be undermined by standby counsel’s participation in  
the March 28, 2025 bench trial.

1 not be given special privileges or benefits, and the undersigned will not assist her. Unlike the  
2 prosecutor representing the Government in this case, Defendant Gilvillabos will be exposed to  
3 the dangers and disadvantages of not knowing what is admissible evidence, what is appropriate  
4 direct and cross examination of witnesses, and what motions she must make and when to make  
5 them. Defendant will be expected to ask questions, make arguments, and observe the rules of  
6 evidence, and meet the standards of a practicing attorney in dealing with courtroom procedures  
7 and in conducting herself in the courtroom.

8 Because a conviction could result in sentence of imprisonment and because the  
9 Defendant wishes to represent herself in these proceedings, the Court will appoint stand-by  
10 counsel to be present at trial. See McKaskle v. Wiggins, 465 U.S. at 178-79, 184. Although the  
11 Court appoints stand-by counsel, Defendant Gilvillabos shall maintain actual control over the  
12 presentation of her defense. Id. at 178.

13 The bench trial currently set for March 28, 2025, shall proceed in the following way:  
14 First, each side may make an opening statement. A party is not required to make an opening  
15 statement or may make their opening statement at the beginning of their presentation of  
16 evidence. An opening statement is not evidence but a road map of what the admissible evidence  
17 will prove. No party is required to give an opening statement. The Government will then present  
18 evidence and each Defendant may cross-examine the witness or object to admission of exhibits  
19 based upon the Federal Rules of Evidence. Then, each Defendant may present evidence, and the  
20 Government and the other Defendants may cross-examine. The sole burden of proof rests with  
21 the Government to prove each and every essential element beyond a reasonable doubt. No  
22 defendant is required to present any evidence. In fact, each defendant has a right to remain silent  
23 and such silence cannot be used against them. Again, the sole burden rests on the Government to  
24 prove its case. However, the Defendants are advised that any statement they do make can be  
25 used against them in the proceeding (other than the statements made in the opening statement or  
26 closing argument). After the evidence has been presented, the Government may make a closing  
27 argument, followed by each Defendant. Because the Government bears the burden of proof, the  
28 Government will then be entitled to a rebuttal closing argument. The closing arguments and

1 rebuttal are not evidence but just a summarization of what the admissible evidence has shown for  
2 their respective case at trial.

3 Based on the foregoing, IT IS HEREBY ORDERED that:

- 4 1. The Clerk's Office is directed to consolidate United States of America v. Bojo,  
5 Case No. 1:24-po-00062-SAB and United States of America v. Gilvillabos, Case  
6 No. 1:24-po-00073-SAB;
- 7 2. Case number 1:24-po-00062-SAB shall be designated as the lead case;
- 8 3. The parties are instructed to file all documents in Case No. 1:24-po-00062-SAB.  
Use of an incorrect case number, including initials, may result in documents being  
misdirected and/or incorrectly calendared by the appropriate judicial officer; and
- 9 4. The Federal Public Defenders Office SHALL provide individual standby counsel  
10 to be present for EACH defendant at trial.

13 IT IS SO ORDERED.

14 Dated: March 19, 2025



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15 STANLEY A. BOONE  
16 United States Magistrate Judge

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